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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,653	12/08/2008	Christopher Henry Such	0446-0188PUS1	2764

2292 7590 11/14/2011
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EXAMINER

MESH, GENNADIY

ART UNIT	PAPER NUMBER
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1763

NOTIFICATION DATE	DELIVERY MODE
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11/14/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/587,653	SUCH ET AL.	
	Examiner	Art Unit	
	GENNADIY MESH	1763	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 November 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: none.
Claim(s) objected to: none.
Claim(s) rejected: 16-18,20,21,23,24,27,30,31,34-36 and 53.
Claim(s) withdrawn from consideration: 1-3, 5, 6, 8, 9, 12, 15, 37, 39 - 41 and 43-52.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/MILTON I CANO/
Supervisory Patent Examiner, Art Unit 1763

/Gennadiy Mesh/
Examiner, Art Unit 1763

Continuation of 11. does NOT place the application in condition for allowance because: 1. No amendments to claims have been made in this Amendment. 2 Applicant's arguments filed on November 3, 2011 related to Claims 16-18, 20-21, 23-24, 27, 30-31, 34-36 and 53 rejected under 35 U.S.C. 103(a) as being unpatentable over Ritchie et al. (US 6,533,967) in view of Papastavros et al. (US 5,056,996) have been fully considered but they are not persuasive.. It is noted, that Applicant taken position that amount of residual styrene is inherent properties of claimed process and for this reason, amount of residual styrene does not need to be present as claimed limitation. However, it is clear from data presented in applicant's specification that amount of residual styrene is complex function of several parameters, including nature of peroxide, amount of peroxide, ratio between peroxides and presence of specific amine accelerators (see Tables 1- 3 and examples. All those properties are not present as limitations of independent Claim 16. Therefore, conclusion, that residual content of styrene is inherent properties of claimed process can not be properly made. Note, that it is well established by court the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993. 3. Regarding applicant's argument, that temperature stabilization is not a concern in suspension or emulsion polymerization; note that local temperature fluctuation due to exothermic reactions can lead to difference in polymer composition (different molecular weight or degree of crosslinking) in different emulsion droplets and to higher amounts of defects in final polymer. For this reason, it is desirable to conduct process, wherein temperature fluctuation is minimized. Evidence can be found in, for example, in US 2006/0149014. (see paragraph [0008]), wherein desirability to conduct suspension polymerization with precise control of polymerization temperature are pointed out. Thus, applicant's arguments were found unpersuasive.

/GM/